

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF **SHIRIN K. FORD ET AL.**
FOR: BIOMARKERS AND METHODS FOR DETERMINING SENSITIVITY TO
EPIDERMAL GROWTH FACTOR RECEPTOR MODULATORS IN NON-SMALL
LUNG CANCER

APPLICATION NO: **10/594,211**
ART UNIT: **1643**
CONFIRMATION NO: **6324**

APPLICATION DATE: **06/21/2007**
EXAMINER: **DUFFY, BRADLEY**
USPTO CUSTOMER NO: **23914**

TRANSMITTED VIA EFS-WEB

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

Dear Sir:

In the Office communication dated February 27, 2009, the Examiner has required restriction to one of the following:

Group I (claim 1) drawn to a method as recited in claim 1; and

Group II (claim 2) drawn to a method as recited in claim 2.

In response to this requirement, Applicants elect Group I (claim 1) without traverse.

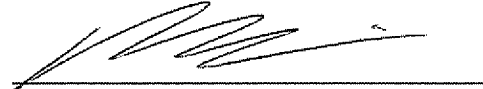
The Examiner has also required election of a single species of biomarker in Table 1. In response to this requirement, Applicants hereby elect S100A9: S100 calcium-binding protein A9, SEQ ID NOS:10 (DNA) ad 157 (amino acid). Claims 1 and 2 are readable thereon. Applicant understands this requirement for election of species to be for initial examination purposes only and not a requirement to restrict the scope of the generic and subgeneric claims of this application to such species. It is respectfully requested that, should the Examiner find the elected species allowable, the search be extended, as provided for under 37 C.F.R. §1.146.

In view of the foregoing, Applicant submits that the application is now in condition for examination on the merits. Early notification to such action is earnestly solicited.

The Commissioner is authorized to charge Deposit Account 19-3880 (Bristol-Myers Squibb Company) for any requisite fees due or to credit any overpayment.

Respectfully submitted,

Date: March 27, 2009



Paul D. Golian
Registration No. 42,591
Telephone No. (609) 252-4091
Facsimile No. (609) 252-4526

Please forward all future written correspondence relating to this application to:

Louis J. Wille
Patent Department
Bristol-Myers Squibb Company
P.O. Box 4000
Princeton, NJ 08543-4000